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ACTION

OCA 86-4317

OFFICE OF CONGRESSIONAL AFFAIRS**Routing Slip**

	ACTION	INFO
1. D/OCA		X
2. DD/Legislation	X	
3. DD/Senate Affairs		X
4. Ch/Senate Affairs		
5. DD/House Affairs		X
6. Ch/House Affairs		
7. Admin Officer		
8. Executive Officer		X
9. FOIA Officer		
10. Constituent Inquiries Officer		
11.		
12.		

SUSPENSE

Jan Date 87

Action Officer:

Remarks:

Name/Date



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 29, 1986

LEGISLATIVE REFERRAL MEMORANDUM

OGA FILE OGA
RECPT # _____

O/CONGRESSIONAL AFFAIRS
86-4317

TO:

Department of the Treasury
Central Intelligence Agency
Department of State

SUBJECT: Department of Defense draft bill -- To amend Sec. 912(1)
of the Internal Revenue Act of 1954.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with Circular A-19.

Please provide us with your views no later than January 26, 1987.
(NOTE -- OMB cleared this legislative proposal during the 99th Congress, and will do so again unless we hear from you to the contrary.)

Direct your questions to Gregory Jones (895-3454), of this office.


James C. Murr for
Assistant Director for
Legislative Reference

Enclosures

cc: Tom Stanners
William Dinkelacker
Arnold Donahue

Ron Peterson
Hilda Schreiber



DD 100-24

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

There is forwarded herewith a draft of legislation "To amend Section 912(1) of the Internal Revenue Act of 1954 (26 U.S.C. §912(1)) by including a paragraph which would grant comparable tax treatment of allowances permitted to certain Department of Defense personnel under Section 9(b)(1) of the National Security Agency Act of 1959 (50 U.S.C. §402 note)."

This proposal is part of the Department of Defense legislative program for the 100th Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for consideration of the Congress. It is recommended that the proposal be enacted by Congress.

Purpose

The National Security Agency Act of 1959 (Public Law 86-36), as amended by the Intelligence Authorization Act of 1982 (Public Law 97-89), provides for certain administrative authorities for the National Security Agency. Section 9(b) of the Act authorizes the Director, National Security Agency, to provide benefits and allowances to certain National Security Agency employees that are comparable to those received by members of the State Department's Foreign Service Corps or Central Intelligence Agency employees stationed overseas. The intent of the Act was to remove inequities arising from the absence of statutory authority to pay to National Security Agency employees the same benefits and allowances that could be paid to either State Department or Central Intelligence Agency personnel alongside whom they work.

During the implementation of the Act, an inequity appeared in the tax treatment of certain allowances provided to the National Security Agency employees. Often the allowances provided to members of the Foreign Service, under Chapter 9 of Title I of the Foreign Service Act of 1980, or Central Intelligence Agency employees, under Section 4 of the Central Intelligence Agency Act of 1949 (50 U.S.C. §403e), were exempted from taxation by Title 26, Section 912(1)(A) and (B) of the Internal Revenue Code. Comparable benefits paid to National Security Agency employees however, may not be exempt because

their enabling statutes were not among those listed under 26 U.S.C. §912(1). Therefore, although the National Security Agency employee would be entitled to the comparable allowance of a Central Intelligence Agency of Foreign Service employee, the taxation of his/her allowance would result in another inequity.

To remedy the disparity, we are proposing that Section 912(1) of the Internal Revenue Code be amended to allow tax exemption of allowances paid to those National Security Agency employees under Section 9(b)(1) of the National Security Agency Act of 1959.

Cost and Budget Data

The enactment of this proposed legislation would result in the loss to the government of income tax revenues otherwise collectible on the exempted sums.

A draft bill and sectional analysis are enclosed.

Sincerely,

Enclosure

A BILL

To amend Section 912(1) of the Internal Revenue Code of 1954 by including a paragraph which would grant comparable tax treatment of allowances provided to certain Department of Defense personnel under Section 9(b)(1) of the National Security Agency Act of 1959 (50 U.S.C. §402 note).

Be it enacted by the Senate and the House of Representatives of the United States in Congress assembled, that Section 912(1) of the Internal Revenue Code of 1954, as amended, is further amended by adding at the end thereof the following paragraph:

"(E) Subsection (b) of Section 9 of the National Security Agency Act of 1959, as amended (50 U.S.C. §402 note), whenever the allowance would be excluded from gross income under paragraphs(1)(A) or (1)(B) of this section."

Sectional Analysis

The Intelligence Authorization Act of 1982 (Public Law 97-89) amended the National Security Agency Act of 1959 to allow the Director, National Security Agency, to provide allowances and benefits to certain civilian employees of the Department of Defense which were comparable to those provided to the State Department's Foreign Service and to employees of the Central Intelligence Agency. During the implementation of this statute, it was discovered that comparability of the allowances could not be achieved unless the tax exemption provided for Foreign Service and Central Intelligence Agency employees under Section 912(1)(A) and (B) of the Internal Revenue Code was also available for civilians employed and assigned to the National Security Agency.

The addition of the proposed paragraph (E) to Section 912(1) will allow the same tax treatment for an allowance paid to a Department of Defense employee under Section 9(b) of the National Security Agency Act of 1959 as would be enjoyed by a member of the Foreign Service Corps or an employee of the Central Intelligence Agency under either paragraph (A) or (B) of the existing statute.